

SCHOONER WASHINGTON.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS TRANSMITTING A COPY OF THE CONCLUSIONS OF LAW AND OF FACT IN THE FRENCH SPOILIATION CASES RELATING TO THE VESSEL SCHOONER WASHINGTON, HENRY CHICHESTER, MASTER.

FEBRUARY 19, 1904.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS,
Washington, D. C., February 18, 1904.

SIR: Pursuant to the order of the Court of Claims I transmit herewith the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel schooner *Washington*, Henry Chichester, master.

I am, very respectfully yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

HON. JOSEPH G. CANNON,
Speaker House of Representatives.

[Court of Claims. French spoiliations. Act of January 20, 1885; 23 Stat. L., 283. Schooner *Washington* Henry Chichester, master.]

- | No. of case. | Claimant. |
|--------------|--|
| 1753. | George B. St. John and Jarvis Kellogg, administrators of James Selleck and George B. St. John, administrator of Eliphalet Lockwood and William Lockwood <i>v. The United States.</i> |
| 1242. | Joseph Ogden, as sole surviving executor of Jane Ann Ferrers and as trustee, <i>v. The United States.</i> |
| 4134. | Leopold Mark, administrator of Louis Mark, surviving partner of the firm of J. Mark & Co., <i>v. The United States.</i> |
| 5232. | Joseph Ogden, administrator of John Ferrers (and as sole surviving executor of Jane Ann Ferrers) and as trustee, <i>v. The United States.</i> |
| 5233. | Joseph Ogden, administrator of John Ferrers (and as sole surviving executor of Jane Ann Ferrers) and as trustee, <i>v. The United States.</i> |
| 159. | Louisa Starkweather, administratrix of Richard S. Hallett, <i>v. The United States.</i> |
| 2012. | Walter Bowne, administrator of Walter Bowne, <i>v. The United States.</i> |

PRELIMINARY STATEMENT.

These cases were tried before the Court of Claims on the 8th day of January, 1903. The claimants were represented by John W. Butterfield, William T. S. Curtis, Theodore J. Pickett, and James Thomson, esqs., and the United States, defendants,

by the Attorney-General, through his assistant in the Department of Justice, John W. Trainer, esq., with whom was Assistant Attorney-General Louis A. Pradt.

I. The schooner *Washington*, Henry Chichester, master, sailed on a commercial voyage on or about March 23, 1799, from Norwalk, Conn., bound for the island of Nevis, West Indies.

While peacefully pursuing her said voyage she was seized on the high seas by the French cruiser *Le Renommée*, Capt. Francis Muguet, 18th Floreal year 7, that is May 8, 1799, and carried into Basse Terre in the island of Guadaloupe, where said vessel and cargo were condemned by the tribunal of commerce and prizes whereby the same became a total loss to the owners.

The grounds of condemnation, as set forth in the decree, were as follows, viz:

I. It is evident that the muster roll is an illegal document, not bearing the signature of witnesses, but only that of the collector, and it is consequently not in conformity to the model prescribed and annexed to the treaty of February 6, 1778.

II. The *Washington* was a duly registered vessel of the United States of 87 $\frac{3}{4}$ tons burden; built at said Norwalk in the year 1793, and was owned in equal parts by James Selleck, Eliphalet Lockwood, and William Lockwood, all citizens of the United States and residing at said Norwalk.

III. The cargo of the *Washington* consisted of corn meal, rye flour, corn, beef, pork, oats, potatoes, lard, cheese, beans, hoops, pine boards, etc., and was owned by William Lockwood and James Selleck, part owners of the vessel.

IV. The losses by reason of the capture and condemnation of the *Washington* and cargo were as follows:

Value of the vessel	\$3,053.47
Value of the cargo	4,406.98
Freight earnings for the voyage	1,454.03
Premiums of insurance paid	432.00
Amounting in all to	9,346.48

SPECIAL FINDINGS.

V. No. 1753. James Selleck owned one-third of the vessel and one-half of the cargo.

His losses were as follows:

One-third of the vessel	\$1,017.83
One-half of the cargo	2,203.49
One-third of freight earnings	484.68
One-third of the premium of 12 per cent on the vessel	80.00
One-half of the premium of 12 per cent on the cargo	96.00
Amounting in all to	3,882.00
Deducting one-third insurance on vessel	\$666.66
And one-half insurance on cargo	800.00
	1,466.66
Loss	2,415.34

Eliphalet Lockwood owned one-third of the vessel.

His losses were as follows:

One-third of the vessel	\$1,017.83
One-third of the freight earnings	484.68
One-third of the premium of 12 per cent insurance on the vessel	80.00
Amounting in all to	1,582.51
Deduct one-third insurance on vessel	666.83
Loss	915.68

William Lockwood owned one-third of the vessel and one-half of the cargo.

His losses were as follows:

One-third of the vessel	\$1,017.83
One-half of the cargo	2,203.49
One-third of the freight earnings	484.68
One-third of the premium of 12 per cent on the vessel	80.00
One-half of the premium of 12 $\frac{1}{2}$ per cent on the cargo	96.00
Amounting in all to	3,882.00

Deducting one-third insurance on the vessel.....	\$666. 66
And one-half on the cargo	800. 00
	<hr/> \$1, 466. 66
Loss.....	2, 415. 34

VI. No. 5232. May 30, 1799, Eliphalet Lockwood & Son and James Selleck effected insurance on the said vessel in the sum of \$2,000 for the voyage aforesaid, and said policy was underwritten by the following parties, citizens of the United States, viz:

William Ogden.....	\$400. 00
Hallett, Bowne & Co	400. 00
Richard S. Hallett	400. 00
Neelson & Bunker.....	400. 00
Coit, Woolsey & Howland	400. 00

That thereafter by reason of the premises the insurers paid to the said insured the amount so underwritten.

VII. No. 5233. May 31, 1799, the aforesaid Eliphalet Lockwood & Son and James Selleck, owners of the cargo, caused insurance to be effected on three-fourths of the same for sum of \$1,600, and said policy was underwritten by the following parties, citizens of the United States, viz:

Frederick De Peyster & Co.....	\$266. 66
Gilbert and John Aspinwall.....	266. 66
Paschal N. Smith	266. 66
J. Mark & Co.....	266. 66
Wm. S. Dunderdale.....	266. 66
Hastie & Patrick	266. 66

That thereafter, by reason of the premises, the insurers paid to the insured the amount so underwritten.

Richard S. Hallett, Hallett, Bowne & Co., and J. Mark & Co. are the only underwriters who appear in this claim.

IX. The claimants herein have produced letters of administration on the estates of the parties for whom they appear and have otherwise proved to the satisfaction of the court that the persons whom they represent are the same persons who suffered loss by reason of the seizure and condemnation of the schooner *Washington*.

Said claims were not embraced in the convention between the United States and the Republic of France concluded on the 30th of April, 1803. They were not claims growing out of the acts of France allowed and paid in whole or in part under the provisions of the treaty between the United States and Spain concluded on the 22d of February, 1819, and were not allowed in whole or in part under the provisions of the treaty between the United States and France of the 4th of July, 1831.

The claimants, in their representative capacity, are the owners of said claims, which have never been assigned except as aforesaid.

CONCLUSIONS OF LAW.

The court decides as conclusions of law that said seizure and condemnation were illegal, and the owners and insurers had valid claims of indemnity therefor upon the French Government prior to the ratification of the convention between the United States and the French Republic concluded on the 30th day of September, 1800; that said claims were relinquished to France by the Government of the United States by said treaty in part consideration of the relinquishment of certain national claims of France against the United States; and that the claimants are entitled to the following sums from the United States:

George B. St. John and Jarvis Kellog, administrators of James Selleck...	\$2, 415. 34
George B. St. John, administrator of Eliphalet Lockwood.....	915. 68
George B. St. John, administrator of William Lockwood.....	2, 415. 34
Louisa Starkweather, administratrix of Richard S. Hallett.....	600. 00
Walter Bowne, administrator of Walter Bowne.....	200. 00
Leopold Mark, administrator of Louis Mark.....	266. 66

BY THE COURT.

Filed January 12, 1903.

A true copy.

Test this 18th day of February, 1904.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

